IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4374 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VISHWANATHBHAI L PATEL
Versus
STATE OF GUJARAT AND OTHERS

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Appearance :
MR DP VORA for Petitioner.
MS FALGUNI PATEL, AGP for Respondents.

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 06/10/2006

ORAL JUDGMENT

By filing this petition, the petitioner has prayed that respondents may be directed not to terminate the services of the petitioner and the case of the petitioner may be considered for regular absorption. It is also

prayed that the department should be restrained from giving break in service or terminating the services of the petitioner at the end of every academic year.

The petitioner was appointed as per the appointment order at page 12, Annexure-A. The petitioner was given posting as a lecturer on ad-hoc basis, however, as per the appointment order, when a regularly selected candidate is available services of the petitioner can be terminated. Grievance of the petitioner is that when the petitioner is qualified to be absorbed regularly, he should not have been given tenure appointment and his services should be regularized.

In response to the petition, affidavit-in-reply is filed by the Joint Director Commissioner of Higher Education Office. In paragraph 5 of affidavit-in-reply, it is stated that the petitioner was appointed as ad-hoc lecturer in Government Arts and Commerce College, Ahwa, District Dang and he has been relieved from the said post, as a GPSC selected candidate has been appointed on his post.

Ms.Falguni Patel, learned AGP, on instructions, submitted that the department has followed principle of 'last come first go' and on that basis, the petitioner is already relieved and, therefore, no relief may be given to the petitioner.

It is not in dispute that the petitioner was appointed subject to the availability of the qualified candidate selected through GPSC and since a person has already been selected through GPSC, now, no relief can be granted to the petitioner.

Considering the aforesaid aspect of the matter, this petition is

required to be rejected and it is rejected accordingly. Rule is discharged with no order as to costs. Interim relief granted earlier stands vacated.

(P.B.Majmudar, J.)

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